

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/980,645 12/01/97 SMITH

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EXAMINER

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ZANELLI, M

ART UNIT

PAPER NUMBER

3661

16

DATE MAILED:

05/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	08/980,445	Applicant(s)	Smith et al.
Examiner	M. Zanella	Group Art Unit	3661

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 3/26/00
 This action is FINAL.
 Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 32, 33, 37-131 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
 Claim(s) 32, 33, 37-121 is/are allowed.
 Claim(s) 122-125, 127-130 is/are rejected.
 Claim(s) 126, 131 is/are objected to.
 Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - All
 - Some*
 - None of the CERTIFIED copies of the priority documents have been
 - received.
 - received in Application No. (Series Code/Serial Number) _____.
 - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 14 Interview Summary, PTO-413
 Notice of References Cited, PTO-892 Notice of Informal Patent Application, PTO-152
 Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

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DETAILED ACTION

1. The request filed on 3/20/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/980645 is acceptable and a CPA has been established. An action on the CPA follows.
2. The preliminary amendment filed on 3/20/00 has been entered. Claims 32, 33, and 37-131 are pending.
3. The IDS filed 3/20/00 has been considered.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 122-125 and 127-130 are rejected under 35 U.S.C. 102(a) as being anticipated by "On the Right Track" (publication- ref. A.R.).

A. As per claims 122 and 127, the publication describes a computerized system and method for vehicle routing, tracking, and scheduling. As noted on page 48 of the document, the computer can be programmed to monitor the difference between a planned route and the actual vehicle position and to issue an alarm if the difference exceeds a pre-programmed threshold. The system as described receives vehicle activity

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information (i.e., position) and performs a monitoring process on the received activity information to determine if the vehicle is performing as expected. These processes are performed automatically by the computer without human intervention.

B. As per claims 123-125 and 128-130, as above wherein the publication reports the vehicle's status via radio communications (i.e., satellite tracking) in which the status is the position of the vehicle relative to an expected route. Monitoring of the position in this manner inherently reflects whether the vehicle is moving along the pre-programmed route. The alarm reflects whether the vehicle is being operated in an appropriate manner (i.e., whether or not the vehicle is following the specified route).

6. Claims 122-125 and 127-130 are further rejected under 35 U.S.C. 102(b) as being anticipated by Hagenbuch (4,839,835).

A. As per claims 122 and 127, Hagenbuch discloses a computer-based system which monitors the activities of a plurality of work vehicles. As shown in Fig. 19a, each vehicle transmits sensor data to a remote controller where the sensor data is processed to generate activity reports (see for example col. 39, lines 33-55). As noted in col. 40, lines 28 *et seq.*, the activities of the vehicles are automatically processed based on sensor information indicative of operations performed by the vehicle. The data received from the vehicles is stored and analyzed by a computer from which productivity and maintenance reports may be generated. The receiving and analyzing

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of the vehicle activity data are performed automatically by the remote computer without human intervention.

B. As per claims 123-125 and 128-130, as above wherein Hagenbuch further discloses using radio communications to transmit vehicle status data to the remote computer (see Fig. 19a) wherein the transmitted data may include position information and information related to various control systems of the vehicle (i.e., engine) (see col. 46, lines 6-19). Hagenbuch also monitors the movements of the vehicles to ensure that they are being operated in an appropriate manner. This is accomplished by setting expected arrival times for the vehicles at preassigned locations (i.e., dump sites). If the vehicle does not arrive on time, the vehicle is contacted to determine if a problem exists (col. 48, lines 10 *et seq.*; col. 49, lines 58 *et seq.*).

7. **REMARKS**

A. With regards to the claims as finally rejected in paper no. 9, the rejections have been withdrawn in view of the amended claim language.

B. Newly added claims 122-131 are broader in scope than the previously pending claims. Claims 122-125 and 127-130 are deemed to read on the prior art as noted above. Claims 126 and 131 determine if the vehicle is stalled in traffic based on the vehicle activity information. Neither of the references noted above disclose or suggest this feature.

C. Claims 32, 33, and 37-121 are allowed.

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D. Claims 126 and 131 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

E. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited patents are of general interest only.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael Zanelli** whose telephone number is **(703) 305-9756** (M-Th, 6:30-5:00 PM).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 308-1113**.

/mjz
May 10, 2000


MICHAEL ZANELLI
PRIMARY EXAMINER